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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,539	02/13/2001	Daniele Brotto	TN-1379A	3388

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EXAMINER	
TIBBITS, PIA FLORENCE	
ART UNIT	**PAPER NUMBER**
2838	

DATE MAILED: 07/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application	Applicant(s)	
	09/782,539	BROTTO ET AL.	
	Examiner	Art Unit	
	Pia F Tibbits	2838	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *25,26 and 30-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *25,26 and 30-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This Office action is in answer to the RCE filed 11/14/2003. Claims 25,26 and 30-32 are pending, and claims 1-24, 27-29, and 33-36 were canceled.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 25, 26, and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Wagner et al.** [hereinafter Wagner][5903462].

Wagner discloses a power tool system comprising a power tool (fig.1, and column 6, lines 20-28) including a non-volatile EEPROM memory 304 (column 8, line 19), storing use profile information about the power tool (column 5, lines 8-23, and column 8, line 19-20). The use profile information includes length of use: column 5, lines 19-20 describes "total turns counts since the tool was assembled and the total number of times a non-zero voltage has been applied to the motor". The power tool is connectable to a reader apparatus/computer (column 6, line 46, and column 8, lines 32-33) via the Remote Computer Port (no separate reference numeral, fig.3), for downloading the stored use profile information. The computer inherently functions as a reader apparatus, since it accesses and acquires data stored in the memory. The disclosure of Wagner differs from the claimed invention in not using the terminology "use profile information". MPEP 2111.01 states, "during patent examination, the pending claims must be given the broadest reasonable interpretation consistent with the specification". It would have been obvious to a person having ordinary skill in the art at the time the invention was made that the performance history/log in Wagner's apparatus provides use profile information since it analyzes data from a performance history recorded by the tool.

Wagner discloses the claimed invention except for making the reader separable from the computer. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make separable the reader and the computer in order to provide an on-site user with an input device capable of sensing stored information, and of conveying that information into on-line storage, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. See ***Nerwin v. Erlichman***, 168 USPQ 177, 179.

As to claim 26, the stored information comprising at least one of the group consisting of tool temperature, length of use, and number of times the tool has been turned on: the patent discloses "the operating parameters monitored comprise temperatures" (column 3, lines 33-34, and fig.3) and also "temperature transducers are also located within the (tool) housing to monitor among others the motor temperature and the temperature of the power supply which may be a battery. The output of the torque and temperature transducers will be represented as digital values to the processor" (column 2, lines 36-41). It would have been obvious to a person having ordinary skill in the art at the time the invention was made that the power supply temperature in Wagner's apparatus provides information about the power tool temperature since it analyzes data from a transducer located within the tool housing.

The patent also discloses that "the processor contains a clock which provides timing pulses as the interrupts to which the processor responds on periodic and asynchronous bases" and that "these performance records will...contain...time information on fasteners as they were tightened or loosened" (column 2, lines 48-50 and 59-60). It would have been obvious to a person having ordinary skill in the art at the time the invention was made that the time information on fasteners' operability in Wagner's apparatus provides information about the power tool length of use since the tool's function is to power up a fastener interface mechanism.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in PTO-892 and not mentioned above disclose related apparatus: **Vanderbrook et al.** [6018381] discloses a suitable reader (such as a computer) to read data, so that correction factors when in the form of machine readable data, may be just carried by the memory of a computer contained as part of a computer controlled device. This could allow a computer-controlled device to determine the necessary correction factor to be applied to the device after the user has made the visual comparison. **Wagner** [5742845] discloses that a reader is a computer having a processor and memory but usually provided with non-QWERY keypads and limited displays. **Kainec et al.** [5637968] discloses a microprocessor-based controller 104 of tool 10 that has two communication ports, one designated 118 for use with a printer, reader or host computer 120 and the other designated 122 for connection to a network 124 for uploading and downloading to a personal computer. **Austin** [4281379] discloses a control system for a numerically controlled (NC) machine tool which includes a direct access, time sharing, general purpose host computer located remotely from the location of the machine tool, and provided with a dedicated microprocessor located proximate the machine tool. The dedicated microprocessor has a storage memory in which at least one program may be stored. The microprocessor is operatively connected to the on-line computer through a port. The microprocessor in turn is connected to the machine control unit (MCU) of the NC machine tool by a reader interface. In operation, the on line computer is used on a time share basis to generate a suitable machine control program. The machine control program is transferred to the dedicated microprocessor by means of the port connection. The machine control program may be edited or revised on a real time basis at the machine tool. Once the machine control program is found acceptable, it is independent of the host computer and it may be shifted from one machine to another independently of machine tool location. **Rhoades** [3679955] discloses in fig. 1, a control console 1 incorporating circuitry connected to provide command signals

to operate an automatic machine tool 2. The command signals are produced in response to a program for cutting tool 3. Program data may be provided from a reader 6 or directly from a computer. **Ullmann et al.** [3806788] discloses in fig. 1 a numerical control system for a machine tool, and the machine control computer consists basically of a reader, a central processor or calculating means. Its input is a program relating to a particular job in the form data, which the reader of the system is adapted to read in the proper sequence. The **Illustrated Dictionary of Electronics by John Gibilisco** describes a reader as a device that transcribes digital signals into meaningful data. **IEEE** describes a reader as an input device capable of sensing stored information, and of conveying that information into on-line storage.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Pia Tibbits whose telephone number is (571) 272-2086. If unavailable, contact the Supervisory Patent Examiner Mike Sherry whose telephone number is (571) 272-2084.

5. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (571) 272-2800.

Papers related to Technology Center 2800 applications only may be submitted to Technology Center 2800 by facsimile transmission. Any transmission not to be considered an official response must be clearly marked "DRAFT". The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Technology Center Fax Center number is (703) 872-9306.

PFT

May 17, 2004